



United States Department of the Interior



BUREAU OF LAND MANAGEMENT

Color Country District
Cedar City Field Office
176 East DL Sargent Drive
Cedar City, Utah 84721

http://www.blm.gov/ut/st/en/fo/cedar_city.html

In Reply Refer To:
4720 (UTC010)

Dear Reader:

The Final Environmental Assessment (EA) for the North Hills Wild Horse Management Plan Area (WHMPA) Wild Horse Gather Plan (EA) **DOI-BLM-UT-C010-2010-0047-EA**, Finding of No Significant Impact, and Decision Record is available on-line at <http://www.ut.blm.gov/> or at http://www.blm.gov/ut/st/en/fo/cedar_city.html. Hard copies can also be obtained, upon request, from the Cedar City Field Office. The North Hills Wild Horse Management Plan Area (WHMPA) includes the BLM's North Hills Herd Management Area (HMA) and the Dixie National Forest, Pine Valley Ranger District's North Hills Wild Horse Territory.

The Environmental Assessment (EA) analyzes the Bureau of Land Management (BLM), Cedar City Field Office's proposal to gather and remove excess wild horses from within and outside the North Hills WHMPA beginning around December 1, 2010.

The Finding of No Significant Impact (FONSI) documents BLM's determination that the proposed action will not result in "significant environmental impacts," and the Decision Record approves implementation of the proposed gather.

If you have any questions on this matter, please contact Chad Hunter, BLM Cedar City Field Office Wild Horse Specialist, at (435) 586-2401

Sincerely,

Randy M. Trujillo
Acting Field Manager
Cedar City Field Office



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Cedar City Field Office
176 East DL Sargent Drive
Cedar City, Utah 84721

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In Reply Refer To:
4720/4710.4 (UTC010)

DECISION RECORD (DR)

for

**Wild Horse Gather Plan Environmental Assessment (EA)
for the North Hills Wild Horse Management Plan Area
Cedar City Field Office
DOI-BLM-UT-C010-2010-0047-EA**

INTRODUCTION

The Bureau of Land Management (BLM) Cedar City Field Office (CCFO), has determined that excess wild horses are present within and outside the boundaries of the North Hills Wild Horse Management Plan Area (WHMPA) and is proposing to gather and remove approximately 210 excess wild horses. BLM will also gather a sufficient number of additional wild horses so that mares can be treated with PZP-22 (Porcine Zona Pellucida) fertility control vaccine, and studs can be released so as to achieve a 60% ratio relative to 40% mares. If gather efficiencies do not allow for the completion of the Proposed Action in Fall 2010, the CCFO would return to the project area in 2012 or 2013 to gather a sufficient number of wild horses to achieve the low range of the appropriate management level (AML) and to implement population control measures for released horses. The gather, removal and fertility control are intended to bring the wild horse population to AML and to slow wild horse population growth in order to extend the time before another gather to remove excess wild horses would be needed.

The North Hills HMA comprises approximately 49,900 acres of BLM-administered, state and private lands. The HMA is managed in cooperation with the United States Forest Service (USFS) - Dixie National Forest, Pine Valley Ranger District's North Hills Wild Horse Territory, which consists of approximately 24,029 acres. Together, the combined area is referred to as the North Hills Wild Horse Management Plan Area (WHMPA). The HMPA is located in Iron and Washington Counties, about 2 miles northwest from Enterprise, Utah. The Appropriate Management Level (AML) was established for the North Hills HMA and the USFS Wild Horse Territory together as a population range of 40-60 head of wild horses (22 -33 head on BLM and 18-27 head on Forest Service). The current estimated population of wild horses within the WHMPA is estimated at 250 wild horses. This number is based on an aerial survey direct count completed on January 2010. An estimated 90% of the total population was counted based on coverage, weather, terrain, tree cover, snow cover, and knowledge of the WHMPA/horses, estimating 208 head of wild horses at that time. It is now estimated that by addition of the spring of 2010 the foal crop and survival of these foals increased the estimated wild horse population within the HMPA by 20%. When the 20% increase of the 2010 spring foal crop is added to the population inventory, the current population in the HMPA is estimated at 250 head or 500% of AML. The gather number includes

horses that may come from the Forest Service area because there are no natural or manmade boundaries to keep the horses from moving between the BLM and Forest Service (FS) lands during the gather.

BLM has prepared an environmental assessment (EA) to analyze the environmental impacts associated with the proposed gather, removal and fertility control measures. Refer to **DOI-BLM-UT-C010-2010-0047-EA**.

DECISION

It is my decision to implement the Proposed Action as described in the final Environmental Assessment for the North Hills WHMPA (**DOI-BLM-UT-C010-2010-0047-EA**). This decision is effective immediately pursuant to 43 CFR 4770.3(c).

RATIONALE

Upon analyzing the impacts of the Proposed Action and following issuance of the EA for public review, I have determined that implementing the Proposed Action will not have a significant impact to the human environment and that an environmental impact statement is not required as set forth in the attached Finding of No Significant Impact.

The gather is necessary to remove excess wild horses and to bring the wild horse population back to within the established AML range, in order to maintain a thriving natural ecological balance between wild horses and other multiple uses as required under Section 1333(a) of the 1971 Wild Free-Roaming Horses and Burros Act (WFRHBA) and Section 302(b) of the Federal Land Policy and Management Act of 1976.

The BLM and FS are required to manage multiple uses to avoid degradation of public rangelands, and the removal of excess wild horses is necessary to protect rangeland resources from further deterioration or impacts associated with the current overpopulation of wild horses within the North Hills WHMPA.

The Proposed Action is in conformance with the BLM's *Pinyon Management Framework Plan (MFP)* approved June 10, 1983 and Forest FLRMP, approved September 2, 1986. The application of fertility control and/or adjustment of sex ratios to 60% males and 40% females within the North Hills WHMPA as described in the Proposed Action would slow population growth, maintain population size within AML and extend the time before another gather to remove excess wild horses becomes necessary. Removal of excess wild horses, combined with the implementation of population control measures for wild horses gathered and released back into the WHMPA would also result in placing fewer excess wild horses in short or long-term holding or in the adoption or sale pipelines over the next 10 year period as compared to the No Action Alternative.

Leaving excess wild horses on the range under the No Action Alternative would not comply with the WFRHBA or applicable regulations and Bureau policy. The No Action Alternative would allow continued deterioration of rangeland resources, including vegetative, soil and riparian resources, and could potentially result in the irreversible loss of native vegetative communities. Wild horses would continue to relocate in increasing numbers to areas outside the WHMPA boundaries due to competition for limited water and forage within the WHMPA, adversely impacting public land resources not designated for wild horse management. The No Action Alternative also increases the likelihood of emergency conditions arising, leading to the death or suffering of individual animals and requiring an emergency gather to prevent suffering or death due to insufficient forage or water.

PUBLIC INVOLVEMENT

A preliminary environmental assessment was made available to the public when it was posted on the Utah BLM website at <http://www.ut.blm.gov/> and at the Utah BLM Environmental Notification Bulletin Board (ENBB) website at <https://www.blm.gov/ut/enbb/>. Hard copies were available from the Cedar City Field Office along with the above websites for a 30 day public review and comment period beginning on September 24, 2010 and ending October 24, 2010. Only one written or mailed-in comment was received. It was from the Iron County Commission. Only one E-mail comment was received from 1 individual. Two individuals associated with the American Wild Horse Preservation Campaign notified the CCFO on October 20, 2010 of a problem accessing the preliminary EA on CCFO home page website http://www.blm.gov/ut/st/en/fo/cedar_city.html. The problem was corrected within 12 hours of notification of the problem. This website had been checked on and was working on Sunday October 17, 2010. The two individuals were notified within 8 hours of the call of how to access the EA on the two websites in the Dear Reader letter. The two websites that were in the notification to the public in a Dear Reader letter were working throughout the comment period, so when these two individuals requested an extension of the comment period the extension was denied. Refer to EA, Section 8.0 Public Involvement for a detailed summary of the comments received and how BLM used these comments in preparing the final environmental assessment. The final Environmental Assessment / Gather Plan for North Hills WHMPA is available on the BLM's web site at <http://www.ut.blm.gov/>, or by contacting the Cedar City Field Office.

The Utah State Office initiated public involvement at a public hearing about the use of helicopters and motorized vehicles to capture and transport wild horses (or burros) on June 9, 2010 at the BLM's Salt Lake Field Office in Salt Lake City, Utah. This specific gather was addressed at that public meeting as well as other gathers that may occur within the state of Utah over the next 12 months. This meeting was advertised in papers and radio stations statewide. The meeting was attended by 12 members of the public and media. No comments were received at that meeting specific to the use of helicopters and other motorized vehicles in the management of wild horses and burros in Utah. No comments were received about this proposed action or the alternatives in this EA (DOI-BLM-UT-C010-2010-0047-EA). The BLM reviewed its SOPs in response to the views and issues expressed at the hearing and determined that no changes to the SOPs were warranted.

AUTHORITY

The authority for this Decision is contained in Section 1333(a) of the 1971 Free-Roaming Wild Horses and Burros Act, Section 302(b) of the Federal Land Policy and Management Act (FLPMA) of 1976, and Code of Federal Regulations (CFR) at 43 CFR §4700.

§4700.0-6 Policy

- (a) Wild horses and burros shall be managed as self-sustaining populations of healthy animals in balance with other uses and the productive capacity of their habitat;
- (b) Wild horses and burros shall be considered comparably with other resource values in the formulation of land use plans;
- (c) Management activities affecting wild horses and burros shall be undertaken with the goal of maintaining free-roaming behavior;
- (d) In administering these regulations, the authorized officer shall consult with Federal and State wildlife agencies and all other affected interests, to involve them in planning for and management of wild horses and burros on the public lands.

§4710.4 Constraints on Management

Management of wild horses and burros shall be undertaken with the objective of limiting the animals' distribution to herd areas. Management shall be at the minimum level necessary to attain the objectives identified in approved land use plans and herd management area plans.

§4720.1 Removal of excess animals from public lands

Upon examination of current information and a determination by the authorized officer that an excess of wild horses or burros exists, the authorized officer shall remove the excess animals immediately ...

§4740.1 Use of Motor Vehicles or Air-Craft

(a) Motor vehicles and aircraft may be used by the authorized officer in all phases of the administration of the Act, except that no motor vehicle or aircraft, other than helicopters, shall be used for the purpose of herding or chasing wild horses or burros for capture or destruction. All such use shall be conducted in a humane manner.

(b) Before using helicopters or motor vehicles in the management of wild horses or burros, the authorized officer shall conduct a public hearing in the area where such use is to be made.

§4770.3 Administrative Remedies

(a) Any person who is adversely affected by a decision of the authorized officer in the administration of these regulations may file an appeal. Appeals and petitions for stay of a decision of the authorized officer must be filed within 30 days of receipt of the decision in accordance with 43 CFR part 4.

(c) Notwithstanding the provisions of paragraph (a) of §4.21 of this title, the authorized officer may provide that decisions to remove wild horses or burros from public or private lands in situations where removal is required by applicable law or is necessary to preserve or maintain a thriving natural ecological balance and multiple use relationship shall be effective upon issuance or on a date established in the decision.

APPROVAL

The North Hills WHMPA wild horse gather is approved to begin on or around December 1, 2010. This decision is effective upon issuance in accordance with 43 C.F.R. § 4770.3 (c) because removal of excess wild horses is necessary to protect animal health and prevent further deterioration of rangeland resources. This decision may be appealed to the Interior Board of Land Appeals, Office of Hearings and Appeals, in accordance with provisions found at 43 CFR Part 4 (see attachment).


Randy M. Trujillo
Acting Field Manager
Cedar City Field Office

11/1/2010
Date

FINDING OF NO SIGNIFICANT IMPACT (FONSI)
for
Wild Horse Gather Plan Environmental Assessment (EA)
For the North Hills Wild Horse Management Plan Area
Cedar City Field Office
DOI-BLM-UT-C010-2010-0047-EA

Based on the analysis of potential environmental impacts in the Environmental Assessment for the North Hills Wild Horse Gather (DOI-BLM-UT-C010-2010-0047-EA), I have determined that the Proposed Action will not have a significant effect on the human environment. Therefore, the preparation of an environmental impact statement (EIS) is not required for compliance with the National Environmental Policy Act of 1969.

Reasons for this finding are based on my consideration of the Council on Environmental Quality (CEQ) criteria for significance (40 CFR 1508.27) with regard to the context and intensity of impacts.

Context: The affected region is limited to portions of Iron and Washington Counties (Utah), where the project area is located. The gather has been planned with input from the Forest Service, interested public and users of public lands.

Intensity: Based on my review of the EA against CEQ's factors for intensity, there is no evidence that the severity of impacts is significant:

1. *Impacts that may be both beneficial and adverse.* The proposed gather would be consistent with the Pinyon Management Framework Plan (MFP, 1983), Forest FLRMP, approved September 2, 1986, and the standards for rangeland health, and would maintain a thriving natural ecological balance and multiple use relationship consistent with other resource needs as required under the WFRHBA. Although the gather and removal of excess wild horses is expected to have short-term impacts on individual animals, over the long-term, it is expected to benefit wild horse health by improving forage and habitat conditions in the herd management areas and would be beneficial for rangeland resources such as vegetative communities, riparian resources, and wildlife habitat.
2. *The degree to which the proposed action affects public health or safety.* The Standard Gather Operating Procedures (EA, Appendix 4) and Observation Day Protocol and Ground Rules (EA, Appendix 9) would be used to conduct the gather and are designed to protect human health and safety, as well as the health and safety of the wild horses. The proposed action has no effect on public health or safety.
3. *Unique characteristics of the geographic area such as proximity to historic or cultural resources, park lands, prime farmlands, wetlands, wild and scenic rivers, or ecologically critical areas.* The proposed action has no potential to affect unique characteristics such as historic or cultural resources or properties of concern to Native Americans. There are no wild and scenic rivers, or ecologically critical areas present in the areas. Maintenance of appropriate numbers of wild horses is expected to help make progress in meeting resource objectives for improved riparian, wetland, aquatic and terrestrial habitat.
4. *The degree to which the effects on the quality of the human environment are likely to be highly controversial.* Effects of the gather are well known and understood. No unresolved issues were raised through consultation or public comments.
5. *The degree to which the possible effects on the human environment are highly uncertain or involve unique or unknown risks.* Possible effects on the human environment are not highly uncertain and do not involve unique or unknown risks. The Proposed Action has no known effects on the human environment

which are considered highly uncertain or involve unique or unknown risks. This is demonstrated through the effects analysis in the EA.

6. *The degree to which the action may establish a precedent for future actions with significant effects or represents a decision in principle about a future consideration.* The action is compatible with future consideration of actions required to improve wild horse management in conjunction with meeting objectives for wildlife habitat within the herd management areas. The Proposed Action does not set a precedent for future actions. Future actions would be subject to evaluation through the appropriate level of NEPA documentation

7. *Whether the action is related to other actions with individually insignificant but cumulatively significant impacts.* The proposed action is not related to other actions with individually insignificant but cumulatively significant impacts.

8. *The degree to which the action may adversely affect districts, sites, highways, structures, or objects listed in or eligible for listing on the National Register of Historic Places or may cause loss or destruction of significant scientific, cultural, or historic resources.* The proposed gather has no potential to adversely affect significant scientific, cultural, or historical resources.

9. *The degree to which the action may adversely affect an endangered or threatened species or its habitat that has been determined to be critical under the Endangered Species Act of 1973.* The proposed action is not likely to adversely affect any listed species, and the action area does not include any habitat determined to be critical under the Endangered Species Act.

10. *Whether the action threatens a violation of Federal, State, local or tribal law or requirements imposed for the protection of the environment.* The Proposed Action is in compliance with the Pinyon Management Framework Plan (MFP, 1983), Forest FLRMP, approved September 2, 1986 and is consistent with other Federal, State, local and tribal requirements for protection of the environment to the maximum extent possible.



Randy M. Trujillo
Acting Field Manager
Cedar City Field Office

11/1/2010
Date

Attachment
Wild Horse Gather Plan Environmental Assessment (EA)
For the North Hills Wild Horse Management Plan Area
Decision Record

Appeal Procedures

If you wish to appeal this decision, it may be appealed to the Interior Board of Land Appeals, Office of the Secretary, in accordance with 43 CFR part 4. If you appeal, your appeal must **also** be filed with the Bureau of Land Management at the following address:

Randy M. Trujillo, Acting Field Manager
BLM, Cedar City Field Office
176 E. DL Sargent Drive
Cedar City, Utah 84720

Your appeal must be filed within thirty (30) days from receipt or issuance of this decision. The appellant has the burden of showing that the decision appealed from is in error.

If you wish to file a petition pursuant to regulation 43 CFR 4.21 (58 FR 4942, January 19, 1993) for a stay (suspension) of the decision during the time that your appeal is being reviewed by the Board, the petition for stay must accompany your notice of appeal. Copies of the notice of appeal and petition for a stay must also be submitted to:

Interior Board of Land Appeals
Office of Hearing and Appeals
801 N. Quincy Street, Suite 300
Arlington, VA 2220

and to the appropriate office of the Field Solicitor:

Office of the Regional Solicitor
6201 Federal Building
125 South State Street
Salt Lake City, UT 84138-1180

If you request a stay, you have the burden of proof to demonstrate that a stay should be granted. A petition for a stay is required to show sufficient justification based on the following standards:

1. The relative harm to the parties if the stay is granted or denied.
2. The likelihood of the appellants success on the merits.
3. The likelihood of immediate and irreparable harm if the stay is not granted.
4. Whether the public interest favors granting the stay.

The Office of Hearings and Appeals regulations do not provide for electronic filing of appeals, therefore they will not be accepted.